

**UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT
BISMARCK, ND 58502**

April 1, 2002

SUBJECT: Calculating Recapture on Direct Single Family Housing
Loans with Early Payoffs

TO: All Rural Development Offices in North Dakota

PURPOSED/INTENDED OUTCOME:

The purpose of this North Dakota Administrative Notice (AN) is to provide guidance on determining appraised value and calculating subsidy recapture in cases where subsidized borrowers have unknowingly paid off their direct Single Family Housing (SFH) loans early and are being notified of recapture due. As a result of the way payments were applied in the past, many borrowers with older accounts will pay off their loans earlier than the maturity date.

COMPARISON WITH PREVIOUS AN:

No previous AN has been issued on this subject.

IMPLEMENTATION RESPONSIBILITIES:

Until January 1990, subsidized payments were applied based on the reduced interest rate as calculated by the Interest Credit Agreement. Applying the monthly installment at a reduced interest rate was equal to having a substantial curtailment credited each month. Additional reductions of principal were compounded until 1990 when the subsidized payment was changed so that interest accrued based on the note rate.

An example of the impact this earlier policy is having is that in the early 1980's many borrowers obtained loans with high interest rates of 13 and 13.5 percent and received subsidy at a 1 percent interest rate. With payments being applied at the lower interest rate, the principal balance was reduced several years earlier than the actual maturity date of the loan.

EXPIRATION DATE:
April 30, 2003

FILING INSTRUCTIONS:
Following ND Supplement
Appendix 7 of HB-2-3550

The longer a loan received the benefit of a 1 percent accrual, and the higher the corresponding note rate, the greater the reduction in loan term. At this time, many of these borrowers are unknowingly making the final installment with payment of their regularly scheduled mortgage payment.

These early payoffs are creating issues in field offices when a borrower unexpectedly pays off their loan early and is informed that they owe an enormous amount of recapture. When a loan is paid in full, borrowers are automatically notified by letter that they have 60 days to submit an appraisal for calculation of recapture. The letter also informs the borrower that they will receive a 25 percent discount if they elect to pay the recapture owed within 60 days. The following guidance will hopefully provide a more efficient method of handling these unusual cases.

PROPERTY VALUATION

The initial version of the Subsidy Repayment Agreement (1979) indicates the amount of subsidy to be repaid to the Government will be based on an appraised value determined by the Agency. An abbreviated or limited appraisal (shows the market comparison only) or assessed value may also be used if you believe that would adequately reflect market value. However, if an assessed value is used, a statement from the field office indicating that the assessed value accurately reflects the market value must be included. (The field office will need to document in the file the evidence on which their conclusion is based that the assessed value would be the same as the appraised market value.)

If an outside appraisal is needed, the Agency will incur the cost and the borrower will not be charged. Costs associated with obtaining an appraisal in these instances will be paid from recoverable Program Loan Cost Funds using the "Direct Loan Financing Account" (R funds) and code "S1B1". The borrower's name and account number should not be included on the AD-838 form. We do; however, recommend including the property address as well as a statement indicating the charge is for an appraisal. Field or state office staff will review the appraisals and the Centralized Servicing Center (CSC) will accept their value determinations.

CUSTOMER NOTIFICATION – CSC AND FIELD OFFICE INTERFACE

Revised notification letters were developed to clarify the explanation of why recapture is due; and, to inform borrowers of the process they should follow relative to payment of subsidy recapture. An explanation of how the borrower may receive consideration for capital improvements is also addressed in the revised letter. The time allotted for these borrowers to pay recapture owed is extended to 120 days; otherwise, the recapture will be deferred and set up as a receivable account. Copies of these letters are attached for your information.

When CSC becomes aware that an account has paid off in this fashion, they will task the field using Task #590 *P & I PIF/Recap Receivable Established. DO NOT RELEASE THE SECURITY INSTRUMENTS*. The expiration timeframe will be 60 days. At the same time, Task #589 *Early Payoff Notification* will be sent to the State Office queue. The expiration timeframe will be 45 days to allow for follow-up before the 60 days expire. This will be an indication that Letter #1, the "Congratulations" letter, has been

sent from CSC and that the field should begin the process to have the market value established. An appraisal/valuation should not be completed until the borrower has indicated whether they are seeking credit for capital improvements. Field offices will need to establish a “tickler” for the capital improvement form or contact the borrower directly for this information. You will have a total of 60 days to provide the market valuation to CSC. Once market value is determined, a request for calculation of recapture should be faxed to the Payoff Section at 314-206-2113. The packet should contain a cover letter stating the purpose of the request, a contact person, fax number and a copy of all supporting documentation.

CSC will send Letter #2 giving the borrower 120 days to either pay the calculated recapture amount owed, or defer payment. CSC will also fax a copy of the letter to the field office. The case file should be marked as a recapture receivable account. Settlement values used by CSC can be viewed on the RHCD Recap Calc screen. If the borrower pays the recapture, the field will get the standard queue to prepare the release.

WORKING WITH PREVIOUSLY AFFECTED BORROWERS

This payment application method has impacted many existing accounts over the past couple of years. Evidence indicates many borrowers may not have understood the situation. As a result, these borrowers have recapture receivable accounts established for the full amount of subsidy received. At the recent SFH Policy Meeting, the CSC provided each state with a list of all recapture receivable accounts. An updated list will be forthcoming within the next 2 weeks. We are requesting that field offices with accounts on this list review the system notes and determine if a maximum recapture receivable account was established for a borrower who unknowingly paid their loan off early.

In these situations you are authorized to start the process to have CSC calculate the subsidy recapture based upon the current market value using the aforementioned guidance and the sample letters attached. In those cases, the field office will send Letter #1, the “Congratulations” letter to the borrower, appropriately modified to change references to “your local field office”, and noting the FASTeller system. Thereafter, the above referenced guidance will be followed from the point of determining market value and faxing a request to the Payoff Section. CSC is authorized to correct the recapture receivable amount in these cases.

/s/ Clare A. Carlson
Clare A. Carlson
State Director

Attachments
Letter #1 with Capital Improvements explanation
Letter #2